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10 Attorneys for Defendant EBAY INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION
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15 WINDSOR AUCTIONS, INC., a Florida
16 corporation, and JEWELRY AUCTIONS
CORPORATION, a New Jersey corporation,
17 and UNIVERSAL COLLECTIBLES, LLC, a
Delaware Limited Liability Company,

18 Plaintiffs,

19 v.

20 EBAY INC., a Delaware corporation,

21 Defendant.
22

Case No. C 07 06454 RMW

**EBAY INC.'S ADMINISTRATIVE MOTION
TO FILE LIVE AUCTIONEERS
AGREEMENT UNDER SEAL PURSUANT TO
CIV. L.R. 79-5(B)**

Date: October 3, 2008

Time: 9:00 a.m.

Dept.: 6

Judge: Hon. Ronald M. Whyte

Amended Complaint Filed: July 24, 2008

1 Pursuant to Civil L.R. 79-5, defendant eBay Inc. ("eBay") hereby requests that the Court
2 enter an Order sealing the form Live Auctioneers LLC agreement (the "Live Auctioneers
3 Agreement"), referred to in paragraph 11 of Plaintiffs Amended Complaint ("FAC"). This request
4 is based on this Administrative Motion, the Declaration of Adam Sand in Support of eBay Inc.'
5 Motion to Dismiss Plaintiffs' Amended Complaint ("Sand Decl.") filed herewith, and the
6 pleadings and papers on file in this action.

7 **I. ARGUMENT**

8 Documents privileged or protectable as a trade secret or otherwise entitled to protection
9 under the law are appropriately sealed from public inspection by order of the Court. Civ. L.R. 79-
10 5(a). California law defines a "trade secret" as "information . . . that derives independent
11 economic value, actual or potential, from not being generally known to the public or to other
12 persons who can obtain economic value from its disclosure or use and is the subject of efforts that
13 are reasonable under the circumstances to maintain its secrecy." Cal. Civ. Code § 3426.1(d)
14 (internal punctuation and capitalization omitted).

15 Compelling reasons support the sealing of the Live Auctioneers Agreement. First the
16 Live Auctioneers Agreement is protectable as a trade secret under California Law because it
17 contains information that is kept secret by Live Auctioneers in order to preserve the economic
18 value inherent in its description of the commercial relationship among parties to the agreement.
19 *See* Cal. Civ. Code § 3426.1(d). Furthermore, the Agreement contains private commercial
20 information that is of little, if any, public concern. The Live Auctioneers Agreement specifically
21 details the rights and obligations of the parties with respect to their commercial relationship. The
22 Live Auctioneers Agreement contains a confidentiality provision which designates the terms of
23 the agreement as confidential and prohibits the disclosure of the subject matter contained therein.
24 *See* Sand Decl. ¶ 5. Because the confidential and protected nature of the Live Auctioneers
25 Agreement outweighs any interest in public access to the Live Auctioneers Agreement, the Live
26 Auctioneers Agreement should be sealed by Order of the Court. *See generally Hagestad v.*
27 *Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995) (trial court has discretion to determine whether the
28 presumption in favor of public access to court documents is overridden by particular facts of a

1 case).

2 **II. CONCLUSION**

3 For the foregoing reasons, eBay hereby requests that the Court enter an order designating
4 that the Live Auctioneers Agreement be filed under seal.

5 Dated: August 11, 2008

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